



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AP57

Repayment by VA of Educational Loans for Certain Psychiatrists

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is adding to its medical regulations a program for the repayment of educational loans for certain psychiatrists who agree to a period of obligated service with VA. This program is intended to increase the pool of qualified VA psychiatrists and increase veterans' access to mental health care.

DATES: Effective Date: This rule is effective on [Insert date of publication in the FEDERAL REGISTER], except for §17.644 which contains information collection requirements that have not been approved by OMB. VA will publish a document in the Federal Register announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Crystal Cruz, Deputy Director, Healthcare Talent Management (10A2A4), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420; (405) 552-4346. (This is not a toll-free number.)

## SUPPLEMENTARY INFORMATION:

Public Law 114-2, the Clay Hunt Suicide Prevention for American Veterans Act (Clay Hunt SAV Act), was enacted on February 12, 2015. Section 4 of this Act establishes a pilot program for the repayment of educational loans for certain psychiatrists seeking employment in VA, which will be referred to as the Program for the Repayment of Educational Loans (PREL) in this rulemaking. VA is in need of qualified psychiatrists to treat veterans who suffer from mental health disorders. This rulemaking is intended to increase the pool of qualified mental health specialists and, in turn, increase veterans' access to needed mental health care. The Clay Hunt SAV Act authorizes VA to repay educational loans to physicians who pursued a program of study leading to a certification in psychiatry. In order to assure that applicants are committed to VA employment, the statute provides that an individual who is participating in any other program of the Federal Government that repays educational loans is not eligible for the PREL. The Clay Hunt SAV Act also states that an individual who breaches his or her period of obligated service is liable to the United States, in lieu of such obligated service, for the amount that has been paid or is payable to or on behalf of the individual, reduced by the proportion of the number of days of the total obligation that the individual has already served. Under the Clay Hunt SAV Act, the PREL may continue for three years after the effective date of this rulemaking.

The purpose of section 4 of the Clay Hunt SAV Act is substantively similar to the purpose of the statutory authority for the Educational Debt Reduction Program (EDRP), which is codified at 38 U.S.C. 7681, and section 4 of the Clay Hunt SAV Act appears as

a Note to section 7681. Both programs are designed to assist VA in the recruitment and retention of qualified health care professionals and the repayment of educational loans to such individuals. VA did not promulgate regulations for the EDRP because there is no statutory requirement to establish regulations for an employee retention program. 5 U.S.C. 553(a)(2). However, subsection (h) of section 4 of the Clay Hunt SAV Act specifically requires VA to prescribe regulations to carry out the program. We have designed the regulations for the PREL in the Clay Hunt SAV Act to be as similar as possible to the VA policies for the EDRP except in specific identified circumstances unique to the PREL as stated in this rulemaking. Similarities between these two programs will facilitate their administration by VA.

We are adding a new center heading immediately after § 17.636 to read, “Program for Repayment of Educational Loans for Certain VA Psychiatrists,” and to add new §§ 17.640 through 17.647.

#### 17.640 Purpose.

New § 17.640 is the purpose section for the PREL. This section states that §§ 17.640 through 17.647 establish the requirements for the PREL “obtained by physician residents pursuing a certification in psychiatry.”

#### 17.641 Definitions.

New § 17.641 is the definitions section applicable to §§ 17.640 through 17.647. The definitions are in alphabetical order in accordance with current writing convention.

We are defining the term “acceptance of conditions” to mean “a signed document between VA and a participant of the PREL, in which the participant must agree to a period of obligated service, to maintain an acceptable level of performance determined by supervisory review in the position to which VA appoints the participant, terms and amount of payment, and to relocate, if required, to a location determined by VA at the participant’s expense in exchange for educational loan repayments under the PREL.”

The participant in the PREL is required to agree to all of the terms and conditions in the acceptance of conditions. The acceptance of conditions is consistent with the acceptance of conditions for the EDRP, with the added requirement of a mobility agreement. This additional requirement alerts the participant to the possibility of relocating to a geographical area that is not in the vicinity of the participant’s residence and that such relocation is at the participant’s expense. The requirement for relocation allows VA to better address employment needs for psychiatrists within its VA medical facilities. We will, therefore, provide a list of available VA medical facilities that have availability for psychiatrists in the acceptance of conditions, at the time the acceptance of conditions is signed. The applicant will choose a preferred location, in rank ordering, for the completion of his or her obligated period of service from the locations listed on the acceptance of conditions. However, VA will ultimately make the final determination as to where the applicant will perform his or her period of obligated service. We will also state that a “participant of the PREL must agree that he or she is willing to accept the location and position to which VA appoints the participant.”

The Clay Hunt SAV Act requires VA to establish in regulation standards for qualified loans. We are defining “educational loan” to mean “a loan, government or commercial, made for educational purposes by institutions which are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the state in which the lender has its principal place of business.” We are also stating “[l]oans must be for the actual costs paid for tuition, and other reasonable educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses.” This definition will clarify that VA will only repay educational loans, not other types of loans that the participant incurred while the participant was completing his or her education. We are stating that loans must be obtained from a government entity, a private financial institution, a school, or any other authorized entity stated in this definition, as required by section 4(a)(2) of the Clay Hunt SAV Act. For this reason, we are also listing the types of loans that would not qualify for the repayment of educational loans; for example, loans made by family or friends, home equity loans, or other non-educational loans. The definition of educational loan will help ensure that debts repaid under this program are truly unpaid educational debt from legitimate educational institutions; represent debt related specifically to the specialty for which VA is recruiting the participant; and minimize opportunities for fraud or misuse of repayment funds. The definition will be consistent with the definition of educational loans for the EDRP program, and is based on our experience administering that program.

We are defining the term “obligated service” to mean the period described in § 17.646. We are including this definition for convenience, but are setting forth the substantive requirements for obligated service in a separate section.

We are stating that the PREL means the program for the repayment of educational loans for certain VA psychiatrists established in §§ 17.640 through 17.647. This shorter term will be used throughout §§ 17.640 through 17.647.

#### 17.642 Eligibility.

New § 17.642(a) will state the eligibility criteria for the PREL. The first criterion, § 17.642(a)(1), is that the applicant be a U.S. citizen. We are stating that the applicant must be a U.S. citizen or permanent resident because the purpose of the program is to increase the supply of qualified psychiatrists. The obligated service requirement could be harder to meet in the case of non-U.S. citizens or permanent residents whose ability to remain in this country is contingent on factors beyond VA’s control.

The Clay Hunt SAV Act describes eligible individuals as either licensed or eligible for licensure to practice psychiatric medicine in VA or enrolled in the final year of residency program leading to a specialty qualification in psychiatric medicine that is approved by the Accreditation Council for Graduate Medical Education. Although the Clay Hunt SAV Act provides for two different categories of eligible individuals, for this pilot program, we are only considering those that are enrolled in the final year of residency program leading to a specialty qualification in psychiatric medicine to allow

VA to draw from a new pipeline of applicants by securing their commitment to VA service while still in residency. Based on past VA recruitment initiatives, VA has encountered a high yield of qualified applicants among those individuals who are in their final year of residency. Nearly two-thirds of all U.S. medical students train in VA medical facilities. We have encountered a greater success rate for VA employment among these students. Under the EDRP, however, VA cannot recruit from the pool of individuals who are in their final year of residency because the EDRP is solely for individuals who are permanent VA employees. VA will use this new, limited authority, in the pilot to focus solely on applicants still in a residency program. This temporary exclusion for the pilot program is intended for discovery purposes and will be assessed as part of the reporting requirements to determine impact and expansion feasibility.

Individuals who are licensed or eligible for licensure would be considered under the EDRP. Therefore, the second eligibility criteria, in § 17.642(a)(2), is that the applicant be “enrolled in the final year of a post-graduate physician residency program leading to either a specialty qualification in psychiatric medicine or a subspecialty qualification of psychiatry; the program must be accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.” Although the Clay Hunt SAV Act only includes programs accredited by the Accreditation Council for Graduate Medical Education, we are expanding the eligibility to include programs accredited by the American Osteopathic Association to increase the pool of qualified candidates. This expansion also makes the PREL consistent with program accreditation requirements for all other VA medical professionals.

The applicant also has to meet other requirements at the time of employment. Specifically, the applicant must have completed all psychiatry residency training, received a completion certificate from the Program Director confirming successful completion of the residency program, and certify intention to apply for board certification in the specialty of psychiatry (through the American Board of Medical Specialties or the American Osteopathic Association) within two years of completion of the residency.

VA's statute requires applicants be licensed or eligible for licensure to practice psychiatric medicine at the time of VA employment. Licensure criteria is listed in § 17.642(a)(3) and consists of having "at least one full, active, current, and unrestricted license that authorizes the licensee to practice in any State, Territories, and possessions of the United States, the District of Columbia, or the Commonwealth of Puerto Rico" and documentation of "graduation from a school of medicine accredited by the Liaison Committee on Medical Education or the American Osteopathic Association ; or, if an international medical graduate, verify that requirements for certification by the Educational Commission for Foreign Medical Graduates have been met." These criteria are consistent with the employment requirements for all VA medical professionals.

New § 17.642(b) stipulates that if the applicant is simultaneously participating in any other program of the Federal Government that repays educational loans, the individual is not eligible to participate in the PREL. This prohibition on simultaneous eligibility is stated in the Clay Hunt SAV Act. See Pub. L. 114-2, sec. 4(b)(2).



#### 17.643 Application for the PREL.

New § 17.643 states what constitutes a complete application for the PREL. New § 17.643(a) states that the complete application for the PREL consists of a completed application form, letters of reference, and personal statement. The letters of reference and personal statement requested from the applicant are consistent with the information requested from individuals who are applying for a medical position in VA.

The types of letters of reference that an applicant for the PREL would need to submit as part of the complete application package are specified in § 17.643(b). These letters of reference attest to the applicant's knowledge and expertise in the field of psychiatric medicine, and will assist VA in selecting the best qualified applicants.

New § 17.643(c) states what constitutes a personal statement. The personal statement provides VA with the applicant's employment history, training, accomplishments, clinical areas of interest, as well as the reasons why the applicant would like to be employed in VA. The personal statement will help VA assess the applicant's strengths, which will assist in job placement within VA. We also request attestation that the applicant is not participating in any other loan payment program. The Clay Hunt SAV Act specifically excludes individuals from participating in the program if they are participating in any other program of the Federal Government that repays educational loans. The applicant must submit a summary of his or her educational debt, including the total amount of the debt, when the debt was acquired, and the name of the lending agency that provided the loan. New § 17.643(c) states that

the loan must be specific to education that was required, used, and qualified the applicant for appointment as a psychiatrist. VA understands that there is a high cost associated with attending medical school and this program will ease the financial burden of the applicants. Lastly, the personal statement must include a full curriculum vitae of the applicant. The information that is requested from the applicants as part of their personal statement is the same information that VA requests from applicants of the EDRP program.

#### 17.644 Selection of participants.

New § 17.644 establishes the selection criteria for applicants to the PREL. VA has an increasing need for qualified physicians who are certified in the field of psychiatry. As such, VA wants to make certain that the applicants who are selected for the PREL are highly qualified in their field as well as demonstrate a long term commitment to employment in VA. The selection criteria in § 17.644(a) is consistent with the selection criteria for physicians seeking employment in VA. VA will try to appoint participants of the PREL to the location desired by the participant and suited to the participant's personal goals; however, VA reserves the right to appoint a participant to a VA medical facility with the greatest need for additional staff psychiatrists. The selection criteria will also include meeting all of the eligibility criteria in § 17.642, strong references from peers and faculty supervisors, and good to excellent standing in the residency program, as determined from the Program Director letter. The participant must not have any identifiable past issues that will adversely affect the participant's credentialing process. If the participant is unable to be credentialed by VA, the

participant will fail to comply with terms and conditions of participation in the PREL. The documentation provided by the participant under § 17.642 will alert VA of any past issues before the participant is selected and will enable VA to select a participant who would be better suited for VA's needs.

The Clay Hunt SAV Act establishes a minimum number of individuals who VA would select for each year that VA carries out the PREL. New § 17.644(b) includes this requirement by stating that VA will select not less than ten individuals to participate in the program for each year that VA carries out the program.

New § 17.644(c) states that "VA will notify applicants that they have been selected in writing." Even though the participant may still be completing his or her residency requirement, we state that the applicant "becomes a participant in the program once the participant submits and VA signs the acceptance of conditions." This will ensure the participant's commitment to the program.

#### 17.645 Award procedures.

The Clay Hunt SAV Act establishes a maximum annual amount that VA may pay to a participant of the PREL. Pub. L. 114-2, sec. 4(e)(2). VA may pay no more than \$30,000 in educational loan repayment for each year of obligated service. This payment restriction is stated in § 17.645(a)(1). New § 17.645(a)(2) further limits the amount paid to the participant by stating that "[a]n educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans." VA

will add this restriction to alert the participant that once the loan has been repaid, VA will not issue further payments on this loan. VA reserves the right to issue payment in the manner that is most beneficial to VA. We are, therefore, stating in § 17.645(b) that VA will issue payments to the applicant or to the “lending institution, on behalf of the participant, for the principal and interest on approved loans.” We are also stating that the payments will be issued on a monthly or annual basis for each applicable service period depending on the terms of the acceptance of conditions. In order to verify that the participant is properly allocating the funds awarded to him or her, VA will require that the participant provide documentation that shows the amounts that were paid or were credited to reduce the principal and interest on the participant’s educational loans during an obligated service period. The PREL is an incentive for recruitment of individuals whose education leads to a degree of doctor of medicine or doctor of osteopathy with a certification in psychiatry. As such, we state that payments issued to the participant for the PREL are exempt from Federal taxation.

#### 17.646 Obligated service.

New § 17.646 provides the requirements for the obligated service for the PREL. New § 17.646(a) states that “[a] participant's obligated service will begin on the date on which the participant begins full-time, permanent employment with VA in the field of psychiatric medicine in a location determined by VA.” We further add that the “obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment.” VA needs to establish a commencement date for the participant’s obligated service in the event that there is a breach in the service

agreement. The Clay Hunt SAV Act states that a participant of the PREL must serve for a period of two or more calendar years. This requirement is stated in § 17.646(b). In order to make the best use of available resources, VA reserves the right to make the final decision on where the participant is assigned to complete his or her obligated service. VA will make every effort to take into consideration the participant's preference; however, if there is no immediate need for a clinical employee in psychiatric medicine in the participant's preferred location, VA will assign the participant to a VA medical facility that is in need of the participant's field of expertise. This requirement is stated in § 17.646(c).

17.647 Failure to comply with terms and conditions of participation.

If a participant fails to commence or complete his or her period of obligated service, such participant is found in breach of the obligated service agreement. Section 4(f) of the Clay Hunt SAV Act provides a liability clause in case of a breach in the participant's obligated service. We will state the participant's liability in § 17.647(a). The amount that a participant would be liable to the United States would be "the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days." Each participant will have a multi-year service agreement. VA interprets this provision to mean that in the event of a breach, at whatever point that breach occurs during the participants' commitment to the program, a participant will be liable to VA for the entire amount that was payable to the participant during the period to which they have committed to the program, minus the prorated amount for the service the participant rendered. VA believes the PREL's authority is intended to allow VA to

collect the full amount of loan payments payable to the participant over the entire term of the individual's service agreement, in a proportion that adequately represents the harm to the agency of being without one of these practitioners for the period of the breach. Participants who fail to begin or complete their obligation will become liable to the United States for the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days for any service year initiated but not completed, and \$30,000 or the yearly amount agreed to in the acceptance of conditions for any full service year agreed to but not initiated.

The intent of the Clay Hunt SAV Act is to increase the pool of qualified psychiatrists in VA and the participant's liability will deter a participant from leaving VA employment or, alternatively, will ensure that VA has authority to recover damages. New § 17.647(b) establishes the repayment period for the amount of damages due to the United States. We state that the participant will be required to repay the amount of damages owed no later than one year after the date of the breach of the acceptance of conditions.

#### Administrative Procedure Act

This final rule prescribes regulations that govern VA employment and are, therefore, exempt from the notice-and-comment requirements of the Administrative Procedure Act under 5 U.S.C. 553(a)(2).

In addition, we note that the number of veterans receiving VA mental health care has greatly increased in the past years. VA provided mental health treatment to more than 1.6 million Veterans in FY 2015. Between FY 2005 and 2015, the number of Veterans who received mental health care from VA grew by 80 percent from ~.9M to

~1.6M. In 2005, 19% of VA users received mental health services, in 2015, the figure was 28%. VA Mental Health Care Fact Sheet July, 8, 2016. This increase is due to improved screening, awareness, and understanding of post-traumatic stress disorder, as well as other mental health disorders. Without qualified psychiatrists to assist veterans in overcoming mental health disorders, this number could increase in the coming years. Veterans have voiced their concerns regarding the lack of qualified mental health specialists within VA, a deficiency that has increased the wait time for VA mental health care. VA Mental Health Care Fact Sheet July, 8, 2016. According to the VA Office of Mental Health Services, VA currently tracks the average number of days from the Veteran's preferred appointment date to the completed appointment date for both new and established patients in mental health treatment. On average, new patients currently have a 4.6-day wait for an appointment and established patients have a 3-day wait. Overall, appointment wait times increased gradually from approximately 2 days at the beginning of FY 2014 to about 3 days in FY 2015 and into FY 2016.

This rulemaking will increase the pool of qualified VA psychiatrists, which will greatly alleviate the shortage of mental health physicians. The Secretary finds that it is impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date.

The Secretary finds good cause to issue this rule as a final rule.

#### Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

#### Paperwork Reduction Act

This final rule includes a provision constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review. OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed § 17.643 contains a collection of information under the Paperwork Reduction Act of 1995. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We have requested that OMB approve the collection of information on an emergency basis, for up to a maximum of 180 days. If OMB does not approve the collection of information as requested, we will immediately remove § 17.643 or take such other action as is directed by OMB.



We are also seeking an approval of the information collection on a nonemergency basis, to authorize the collection of information after the 180 day maximum emergency approval period, by requesting comments on the collection of information provisions contained in § 17.643. Comments must be submitted by [insert 60 days from date of publication in the Federal Register]. Comments on the collection of information contained in this final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; fax to (202) 273-9026; or through [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to “RIN 2900-AP57 Repayment by VA of Educational Loans for Certain Psychiatrists.”

OMB is required to make a decision concerning the collections of information contained in this final rule between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VA considers comments by the public on collections of information in—

- Evaluating whether the collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA’s estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The collections of information contained in § 17.643 are described immediately following this paragraph, under their respective titles.

Title: Repayment by VA of Educational Loans for Certain Psychiatrists.

Summary of collection of information: The information required determines the eligibility or suitability of an applicant desiring to participate in the PREL under the provisions of 38 U.S.C. 7681 Note. The purpose of the PREL would be to repay educational loans to individuals who pursued a program of study leading to a degree in psychiatric medicine and who are seeking employment in VA. VA considers this program as a hiring incentive for physicians with a degree in psychiatric medicine, which will help alleviate the shortage of mental health specialists in VA.

Description of the need for information and proposed use of information: The information is needed to apply for the PREL. VA will use this information to select qualified candidates to participate in this program.

Description of likely respondents: Potential participants of the PREL.

Estimated number of respondents per month/year: 100 per year.

Estimated frequency of responses per month/year: 1 per year.

Estimated average burden per response: 8 hours per year.

Estimated total annual reporting and recordkeeping burden: 800 hours per year.

### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

### Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere

with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined to be a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

## Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert D. Snyder, Chief of Staff, Department of Veterans Affairs, approved this document on May 23, 2016, for publication.

## List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: May 23, 2016

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Jeffrey Martin  
Office Program Manager  
Office of Regulation Policy & Management  
Office of the Secretary  
Department of Veterans Affairs

Editorial note: This document was received at the Office of the Federal Register on September 23, 2016.

For the reasons set out in the preamble, VA is amending 38 CFR part 17 as follows:

## PART 17 - MEDICAL

1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

Sections 17.640 and 17.647 also issued under Pub. L. 114-2, sec. 4.

Sections 17.641 through 17.646 also issued under 38 U.S.C. 501(a) and Pub. L. 114-2, sec. 4.

2. Add an undesignated center heading immediately following § 17.636 and new §§ 17.640 through 17.647 to read as follows:

#### Program for Repayment of Educational Loans for Certain VA Psychiatrists

Sec.

17.640 Purpose.

17.641 Definitions.

17.642 Eligibility.

17.643 Application for the program for the repayment of educational loans.

17.644 Selection of participants.

17.645 Award procedures.

17.646 Obligated service.

17.647 Failure to comply with terms and conditions of participation.

#### Program for Repayment of Educational Loans for Certain VA Psychiatrists

§ 17.640 Purpose.

The purpose of §§ 17.640 through 17.647 is to establish the requirements for the program for the repayment of educational loans (PREL) obtained by physician residents pursuing a certification in psychiatry.

§ 17.641 Definitions.

The following definitions apply to §§ 17.640 through 17.647.

Acceptance of conditions means a signed document between VA and a participant of the PREL, in which the participant must agree to a period of obligated service, to maintain an acceptable level of performance determined by supervisory review in the position to which VA appoints the participant, to terms and amount of payment, and to relocate, if required, to a location determined by VA at the participant's expense in exchange for educational loan repayments under the PREL. VA will provide a list of available locations for the period of obligated service in the acceptance of conditions. The applicant will choose the preferred location, in ranking order, for the completion of his or her obligated service from the locations on this list. However, VA will ultimately make the final determination as to where the applicant will perform his or her period of obligated service. A participant of the PREL must agree that he or she is willing to accept the location and position to which VA appoints the participant.

Educational loan means a loan, government or commercial, made for educational purposes by institutions that are subject to examination and supervision in their capacity



as lending institutions by an agency of the United States or of the state in which the lender has its principal place of business. Loans must be for the actual costs paid for tuition, and other reasonable educational expenses such as living expenses, fees, books, supplies, educational equipment and materials, and laboratory expenses. Loans must be obtained from a government entity, a private financial institution, a school, or any other authorized entity stated in this definition. The following loans do not qualify for the PREL:

- (1) Loans obtained from family members, relatives, or friends;
- (2) Loans made prior to, or after, the individual's qualifying education;
- (3) Any portion of a consolidated loan that is not specifically identified with the education and purposes for which the PREL may be authorized, such as home or auto loans merged with educational loans;
- (4) Loans for which an individual incurred a service obligation for repayment or agreed to service for future cancellation;
- (5) Credit card debt;
- (6) Parent Plus Loans;
- (7) Loans that have been paid in full;
- (8) Loans that are in default, delinquent, not in a current payment status, or have been assumed by a collection agency;
- (9) Loans not obtained from a bank, credit union, savings and loan association, not-for-profit organization, insurance company, school, and other financial or credit institution which is subject to examination and supervision in its capacity as a lending

institution by an agency of the United States or of the state in which the lender has its principal place of business;

(10) Loans for which supporting documentation is not available;

(11) Loans that have been consolidated with loans of other individuals, such as spouses, children, friends, or other family member; or

(12) Home equity loans or other non-educational loans.

PREL means the program for the repayment of educational loans for certain VA psychiatrists established in §§ 17.640 through 17.647.

#### § 17.642 Eligibility.

(a) General. To be eligible for the PREL, an applicant must meet all of the following requirements:

(1) Be a U.S. citizen or permanent resident.

(2) Be enrolled in the final year of a post-graduate physician residency program leading to either a specialty qualification in psychiatric medicine or a subspecialty qualification of psychiatry (the program must be accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and, by the time of VA employment, must:

(i) Have completed all psychiatry residency training;

(ii) Have received a completion certificate from the Program Director confirming successful completion of the residency program; and

(iii) Certify intention to apply for board certification in the specialty of psychiatry (through the American Board of Medical Specialties or the American Osteopathic Association) within two years after completion of residency.

(3) Be licensed or eligible for licensure to practice medicine by meeting the following requirements by the time of VA employment:

(i) Have at least one full, active, current, and unrestricted license that authorizes the licensee to practice in any State, Territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(ii) Document graduation from a school of medicine accredited by the Liaison Committee on Medical Education or the American Osteopathic Association; or, if an international medical graduate, verify that requirements for certification by the Educational Commission for Foreign Medical Graduates have been met.

(b) Simultaneous participation in another repayment program. Any applicant who, at the time of application, is participating in any other program of the Federal Government that repays the educational loans of the applicant is not eligible to participate in the PREL.

#### § 17.643 Application for the PREL.

(a) General. A complete application for the PREL consists of a completed application form, letters of reference, and personal statement.

(b) References. The applicant must provide the following letters of reference and sign a release of information form for VA to contact such references. The letters of reference should include the following:

(1) One letter of reference from the Program Director of the core psychiatry program in which the applicant trained or is training, or the Program Director of any psychiatry subspecialty program in which the applicant is training, which indicates that the applicant is in good to excellent standing;

(2) One or more letters of reference from faculty members under which the applicant trained;

(3) One letter of reference from a peer colleague who is familiar with the psychiatry practice and character of the applicant.

(c) Personal statement. The personal statement must include the following documentation:

(1) A cover letter that provides the following information:

(i) Why the applicant is interested in VA employment;

(ii) The applicant's interest in working at a particular VA medical facility;

(iii) Likely career goals, including career goals in VA; and

(iv) A brief summary of past employment or training and accomplishments, including any particular clinical areas of interest (e.g., substance abuse).

(2) The following information must be provided on a VA form or online collection system and is subject to VA verification:

(i) Attestation that the applicant is not participating in any other loan repayment program.

(ii) A summary of the applicant's educational debt, which includes the total debt amount and when the debt was acquired. The health professional debt covered the loan must be specific to education that was required, used, and qualified the applicant for appointment as a psychiatrist.

(ii) The name of the lending agency that provided the educational loan.

(3) A full curriculum vitae.

#### § 17.644 Selection of participants.

(a) Selection criteria. In evaluating and selecting participants, VA will consider the following factors:

(1) The applicant meets all of the eligibility criteria in § 17.642 and has submitted a complete application under § 17.643;

(2) The strength of the applicant's letters of reference;

(4) The applicant is in good to excellent standing in the residency program, as determined from the Program Director letter of reference;

(5) The applicant demonstrates a strong commitment to VA's mission and core values;

(6) The applicant has personal career goals that match VA needs (i.e., to work with patients suffering from traumatic brain injury, substance abuse, or post-traumatic stress disorder);

(7) The applicant's expresses a desire to work at a location that matches with VA needs; and

(8) The applicant does not have any identifiable circumstances relating to education, training, licensure, certification and review of health status, previous experience, clinical privileges, professional references, malpractice history and adverse actions, or criminal violations that would adversely affect the applicant's credentialing process.

(b) Selection. VA will select not less than 10 individuals who meet the requirements of this section to participate in the program for the repayment of educational loans for each year in which VA carries out the program.

(c) Notification of selection. VA will notify applicants that they have been selected in writing. An individual becomes a participant in the PREL once the participant submits and VA signs the acceptance of conditions.

#### § 17.645 Award procedures.

(a) Repayment amount. (1) VA may pay not more than \$30,000 in educational loan repayment for each year of obligated service.

(2) An educational loan repayment may not exceed the actual amount of principal and interest on an educational loan or loans.

(b) Payment. VA will pay the participant, or the lending institution on behalf of the participant, directly for the principal and interest on the participant's educational loans. Payments will be made monthly or annually for each applicable service period, depending on the terms of the acceptance of conditions. Participants must provide VA documentation that shows the amounts that were credited or posted by the lending institution to a participant's educational loan during an obligated service period. VA will issue payments after the participant commences the period of obligated service. Payments are exempt from Federal taxation.

§ 17.646 Obligated service.

(a) General provision. A participant's obligated service will begin on the date on which the participant begins full-time, permanent employment with VA in the field of psychiatric medicine in a location determined by VA. Obligated service must be full-time, permanent employment and does not include any period of temporary or contractual employment.

(b) Duration of service. The participant will agree in the acceptance of conditions to serve for an obligated service period of 2 or more calendar years.

(c) Location and position of obligated service. VA reserves the right to make final decisions on the location and position of the obligated service.

§ 17.647 Failure to comply with terms and conditions of participation.

(a) Participant fails to satisfy obligated service. A participant of the PREL who fails to satisfy the period of obligated service will be liable to the United States, in lieu of such obligated service, for the full amount of benefit they expected to receive in the agreement, pro-rated for completed service days.

(b) Repayment period. The participant will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than 1 year after the date of the breach of the agreement.

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